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Filed with the Classified
Information Security Officer
CISO W. J. [illegible]
Date 2/15/2018

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

UNITED STATES OF AMERICA)

v.)

No. 1:17-cr-154 (TSE)

KEVIN PATRICK MALJORY,)

Defendant.)

DEFENDANT'S SUPPLEMENTAL CIPA § 5
NOTICE IN RESPONSE TO ORDER DATED FEBRUARY 5, 2018

In accordance with the Court's February 5, 2018, Order, the Defendant, by counsel, submits this Amended CIPA § 5 Notice.

I. Item 10, DIA OIG Report, Class US 00210-255

In response to the Court's direction to provide greater particularity with respect to the classified portions of this document that the defendant may disclose, or cause the disclosure of, the Defendant hereby gives notice that he may seek to disclose, or cause the disclosure of, the following specified portions of this previously-noticed OIG Report: Class US 212 ¶ 2; Class US 216 ¶¶ 7(b) & 8; Class US 217 ¶¶ 8-9; Class US 218 ¶¶ 9; Class US 224-25; Class US 227-28; Class US 230-231; Class US 233-34; Class US 236-37; Class US 239-40.

II. Item 12, Electronic Media

This category includes two distinct types of evidence: (1) the fruit of search warrant returns for email and social media accounts; and (2) a review of the seized Samsung Galaxy phone and forensic images of that and other seized electronic media and devices.

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With respect to the first category (the results of search warrant returns for social media accounts and email accounts), the defendant has not identified any classified information within that production.

With respect to the second category (a physical review of the seized Samsung Galaxy phone and a review of forensic images of that and other seized electronic devices), that is a type of review that can only be done by a qualified forensic expert with an appropriate security clearance. A forensic image of a device is a "bitstream" copy of the electronic data on the device – essentially, a flood of electronic ones and zeros that can contain critical evidence, but which is meaningless to a layperson, or even to a qualified forensic expert without the use of specialized software.

In this case, the forensic images were produced on November 27 and December 7, 2017. Shortly thereafter, on December 13, 2017, the defense advised the government of the identity of the expert they had retained, who held the requisite security clearance. In the two months since that time, the defense expert still has not received the requisite approvals from the government to commence any work on the case. Accordingly, the defense cannot, at this time, identify whether there is any classified information from its forensic review of electronic evidence that it may seek to use at trial. A supplemental CIPA § 5 Notice will be filed, if appropriate, once the defense expert is permitted to do the work he has been retained to perform.

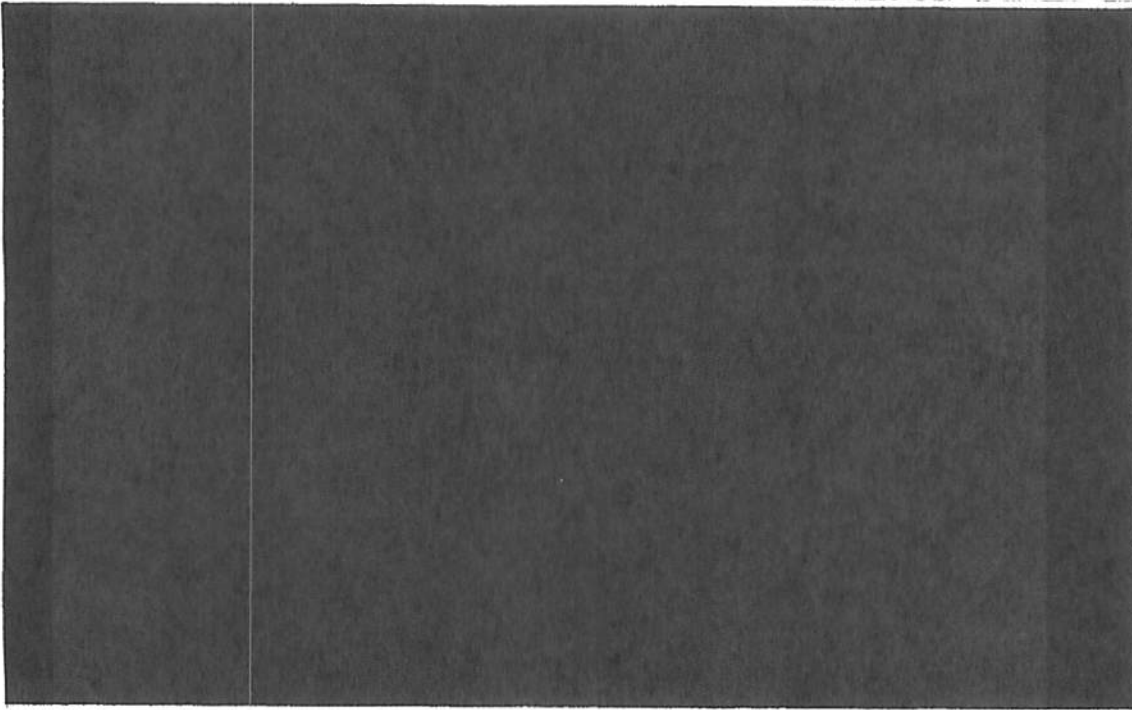
III. Testimonial Evidence

With respect to Mr. Mallory's work experience in the United States Intelligence Community ("USIC"), Mr. Mallory supplements his previous disclosures as follows:

1) [REDACTED] In this operation, on which Mr. Mallory worked in his capacity as a CIA contractor in approximately 2010-11, Mr. Mallory [REDACTED]

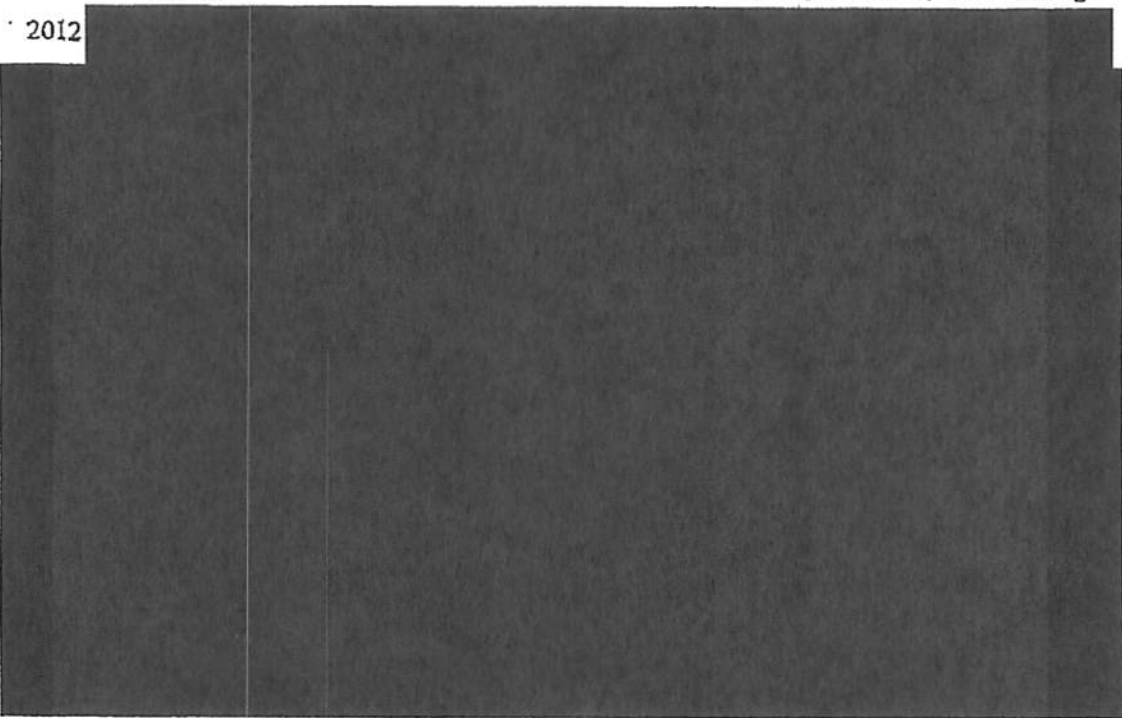
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ii) [REDACTED] Mr. Mallory worked as a CIA contractor from approximately 2011 through

2012



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[REDACTED]

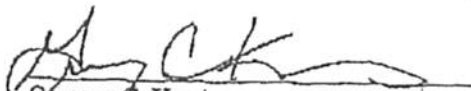
iii) *Work at* [REDACTED] Mr. Mallory would further disclose that when he was first employed as a CIA covert officer, [REDACTED]

[REDACTED]

Mr. Mallory has no reason to believe that the identification of any witness he intends to call at trial, other than those previously identified, would raise any issues with respect to classified evidence.

Respectfully Submitted,

KEVIN PATRICK MALLORY
By Counsel,




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CERTIFICATE OF SERVICE

I hereby certify that on February 23, 2018, I delivered the foregoing pleading to the Classified Information Security Officer (CISO), who will deliver the pleading to opposing counsel and the Court.


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